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HOUSE BILL 135

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Max Coll

AN ACT

RELATING TO ELECTIONS; ALLOWING A POLITICAL PARTY TO NOMINATE ANY QUALIFIED CANDIDATE TO RUN UNDER ITS PARTY NAME IN AN ELECTION; ALLOWING A CANDIDATE'S NAME TO APPEAR MORE THAN ONCE ON A BALLOT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-4-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 72, as amended by Laws 1993, Chapter 314, Section 15 and also by Laws 1993, Chapter 316, Section 15) is amended to read:

"1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT BE MADE. -- [A. ~~No~~] A designation of party affiliation shall not be made or changed on an existing certificate of registration at any time during which registration is closed.

~~[B. Every person appearing as a candidate on the~~

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1 ~~primary or general election ballot shall be a candidate only~~
2 ~~under the name and party affiliation designation appearing on~~
3 ~~his existing certificate of registration on file in the county~~
4 ~~clerk's office on the date of the governor's proclamation of a~~
5 ~~primary election.]"~~

6 Section 2. Section 1-8-2 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 152, as amended) is amended to read:

8 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
9 CONVENTION-DESIGNATED NOMINEES. --

10 A. If the rules [~~and regulations~~] of a minor
11 political party require nomination by political convention:

12 (1) the chairman and secretary of the state
13 political convention shall certify to the secretary of state
14 the names of their party's nominees for United States senator,
15 United States representative, all elective state offices,
16 legislative offices elected from multicounty districts, the
17 public regulation commission, all elective judicial officers in
18 the judicial department and all offices representing a district
19 composed of more than one county; and

20 (2) the chairman and secretary of the county
21 political convention shall certify to the county clerk the
22 names of their party's nominees for elected county offices and
23 for legislative offices elected from a district located wholly
24 within one county or that is composed of only one county.

25 B. The names certified to the secretary of state

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1 shall be filed on the second Tuesday in July in the year of the
2 general election and shall be accompanied by a petition
3 containing a list of signatures and addresses of voters
4 totaling not less than one percent of the total number of votes
5 cast at the last preceding general election for the office of
6 governor or president of the United States, as the case may be:

- 7 (1) in the state for statewide offices; and
8 (2) in the district for offices other than
9 statewide offices.

10 ~~[The petition shall contain a statement that the voters~~
11 ~~signing the petition are residents of the state, district,~~
12 ~~county or area to be represented by the office for which the~~
13 ~~person being nominated is a candidate.]~~

14 C. The names certified to the county clerk shall be
15 filed on the second Tuesday in July in the year of the general
16 election and shall be accompanied by a petition containing a
17 list of signatures and addresses of voters totaling not less
18 than one percent of the total number of votes cast at the last
19 preceding general election for the office of governor or
20 president of the United States, as the case may be:

- 21 (1) in the county for countywide offices; and
22 (2) in the district for offices other than
23 countywide offices.

24 D. The petition shall contain a statement that the
25 voters signing the petition are residents of the state,

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1 district, county or area to be represented by the office for
2 which the person being nominated is a candidate.

3 ~~[D. Persons certified as nominees shall be members~~
4 ~~of that party before the day the governor issues the primary~~
5 ~~election proclamation.]~~

6 E. ~~[No]~~ A voter shall not sign any petition
7 prescribed by this section for more persons than the number of
8 minor party candidates necessary to fill the office at the next
9 ensuing general election. "

10 Section 3. Section 1-8-8 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 158, as amended) is amended to read:

12 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT-- OCCURRING
13 AFTER PRIMARY. --

14 A. If after a primary election a vacancy occurs,
15 for any cause, in the list of nominees of a qualified political
16 party for any public office to be filled in the general
17 election, or a vacancy occurs because of the resignation or
18 death of a person holding a public office not included in the
19 governor's proclamation and which office is required by law to
20 be filled at the next succeeding general election, the vacancy
21 on the general election ballot may be filled by:

22 (1) the central committee of the state
23 political party filing the name of its nominee for the office
24 with the proper filing officer when ~~[such]~~ the office is a
25 federal, state, district or multicounty legislative district

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1 office; and

2 (2) the central committee of the county
3 political party filing the name of its nominee for the office
4 with the proper filing officer when [~~such~~] the office is a
5 magistrate or county office, or a legislative district office
6 where the district is entirely within the boundaries of a
7 single county.

8 B. [~~Appointments made~~] An appointee appointed
9 pursuant to Subsection A of this section shall [~~be of the same~~
10 ~~party affiliation as the original nominee and~~] reside in the
11 district from which [~~he~~] the appointee will be elected as shown
12 by his certificate of registration on file in the county
13 clerk's office before the day of the governor's primary
14 election proclamation.

15 C. Appointments to fill vacancies in the list of a
16 party's nominees shall be made and filed at least fifty-six
17 days prior to the general election. If the vacancy is caused
18 by the death of a nominee, the central committee may in like
19 manner file the name of its nominee to fill the vacancy up
20 until five days prior to the general election.

21 D. When the name of a nominee is filed as provided
22 in this section, [~~such~~] the name shall be placed on the general
23 election ballot as the party's candidate for that office. In
24 the case of a nominee appointed after the general election
25 ballots are printed, [~~such~~] the name shall be placed on the

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1 ballot by pasting the printed name of the nominee over the name
2 of the candidate whose vacancy he fills on the general election
3 ballot. "

4 Section 4. Section 1-8-18 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 167, as amended) is amended to read:

6 "1-8-18. PRIMARY ELECTION LAW - WHO MAY BECOME A
7 CANDIDATE. --

8 A. [~~No~~] A person shall not become a candidate for
9 nomination by a political party or have his name printed on the
10 primary election ballot unless his record of voter registration
11 shows

12 [~~(1) his affiliation with that political party~~
13 ~~on the date of the governor's proclamation for the primary~~
14 ~~election; and~~

15 ~~(2)]~~ his residence is in the district of the
16 office for which he is a candidate on the date of the
17 governor's proclamation for the primary election or, in the
18 case of a person seeking the office of United States senator or
19 United States representative, his residence is within New
20 Mexico on the date of the governor's proclamation for the
21 primary election.

22 B. Any voter may challenge the candidacy of [~~any~~] a
23 person seeking nomination by a political party, for the reason
24 that [~~he~~] the person does not meet the residency requirements
25 [~~of Subsection A of~~] pursuant to this section, by filing a

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1 petition in the district court within ten days after the last
2 day for filing a declaration of candidacy or a statement of
3 candidacy for convention designation. The district court shall
4 hear and render a decision on the matter within ten days after
5 the filing of the petition. The decision of the district court
6 may be appealed to the supreme court within five days after the
7 decision is rendered. The supreme court shall hear and render
8 a decision on the appeal forthwith. "

9 Section 5. Section 1-8-21.1 NMSA 1978 (being Laws 1993,
10 Chapter 55, Section 11) is amended to read:

11 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION. --

12 A. State conventions of major political parties may
13 designate candidates for nomination to statewide office or the
14 office of United States representative.

15 B. ~~No~~ A state convention for designating
16 candidates shall not be held later than the third Sunday in
17 March preceding the primary election, and delegates to the
18 convention shall be elected according to state party rules
19 filed in the office of the secretary of state.

20 C. The state convention shall take only one ballot
21 upon candidates for each office to be filled. Every candidate
22 receiving twenty percent or more of the votes of the duly
23 elected delegates to the convention for the office to be voted
24 upon at the ensuing primary election shall be certified to the
25 secretary of state as a convention-designated nominee for that

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1 office by the political party. Certification shall take place
2 no later than 5:00 p.m. on the first Tuesday succeeding the
3 state convention.

4 D. The certificate of designation submitted to the
5 secretary of state shall state the name of the office for which
6 each person is a candidate, ~~[his]~~ the candidate's name and
7 address and the name of the political party that the candidate
8 represents ~~[and shall certify that the candidate has been a~~
9 ~~member of that political party for the period of time required~~
10 ~~by the Election Code]. "~~

11 Section 6. Section 1-8-27 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 172, as amended) is amended to read:

13 "1-8-27. PRIMARY ELECTION LAW - DECLARATION OF CANDIDACY--
14 MANNER OF FILING. -- ~~[Each]~~ A declaration of candidacy, by
15 nominating petition or by preprimary convention designation,
16 shall be delivered for filing in person by the candidate
17 therein named or by a person acting, by virtue of written
18 authorization, solely on the candidate's behalf. ~~[The proper~~
19 ~~filing officer shall not accept for filing more than one~~
20 ~~declaration of candidacy from any one individual, except that~~
21 ~~candidates who seek but fail to receive preprimary convention~~
22 ~~designation shall file a declaration of candidacy by~~
23 ~~nomination, according to provisions of the Primary Election~~
24 ~~Law, to have their names placed on the primary election~~
25 ~~ballot.] "~~

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1 Section 7. Section 1-8-31 NMSA 1978 (being Laws 1973,
2 Chapter 228, Section 5, as amended) is amended to read:

3 "1-8-31. PRIMARY ELECTION LAW - NOMINATING PETITION - -
4 SIGNATURES TO BE COUNTED. - -

5 A. A person who signs a nominating petition shall
6 sign only one petition for the same office unless more than one
7 candidate is to be elected to that office, and in that case a
8 person may sign not more than the number of nominating
9 petitions equal to the number of candidates to be elected to
10 the office.

11 B. A person who signs a nominating petition shall
12 indicate his residence as his address. If the person does not
13 have a residential address, he may provide his mailing address.

14 C. A signature shall be counted on a nominating
15 petition unless there is evidence presented that the person
16 signing:

17 (1) ~~[was not a registered member of the~~
18 ~~candidate's political party ten days prior to the filing of the~~
19 ~~nominating petition;~~

20 (2) failed to provide information required by
21 the nominating petition sufficient to determine that the person
22 is a qualified voter of the state, district, county or area to
23 be represented by the office for which the person seeking the
24 nomination is a candidate;

25 ~~(3)~~ (2) has signed more than one petition

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1 for the same office, except as provided in Subsection A of this
2 section, or has signed one petition more than once; or

3 [~~(4) is not of the same political party as the~~
4 ~~candidate named in the nominating petition as shown by the~~
5 ~~signer's certificate of registration; or~~

6 ~~(5)] (3) is not the person whose name appears~~
7 on the nominating petition.

8 D. The procedures set forth in this section shall
9 be used to validate signatures on any petition required by the
10 Election Code [~~except that Paragraphs (1) and (4) of Subsection~~
11 ~~C of this section shall not apply to petitions filed by~~
12 ~~unaffiliated candidates or petitions filed by candidates of~~
13 ~~minor political parties]. "~~

14 Section 8. Section 1-8-33 NMSA 1978 (being Laws 1973,
15 Chapter 228, Section 7, as amended) is amended to read:

16 "1-8-33. PRIMARY ELECTION LAW - NOMINATING PETITION - -
17 NUMBER OF SIGNATURES REQUIRED. - -

18 A. As used in this section, "total vote" means the
19 sum of all votes cast for all of the party's candidates for
20 governor at the last preceding primary election at which the
21 party's candidate for governor was nominated.

22 B. Candidates who seek preprimary convention
23 designation shall file nominating petitions at the time of
24 filing declarations of candidacy. Nominating petitions for
25 those candidates shall be signed by a number of voters equal to

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1 at least two percent of the total vote of the [~~candidate's~~]
2 party whose nomination the candidate is seeking in the state or
3 congressional district, or the following number of voters,
4 whichever is greater:

5 (1) for statewide offices, two hundred thirty
6 voters; and

7 (2) for congressional candidates, seventy-
8 seven voters.

9 C. Nominating petitions for candidates for any
10 other office to be voted on at the primary election for which
11 nominating petitions are required shall be signed by a number
12 of voters equal to at least three percent of the total vote of
13 the [~~candidate's~~] party whose nomination the candidate is
14 seeking in the district or division, or the following number of
15 voters, whichever is greater:

16 (1) for metropolitan court and magistrate
17 courts, ten voters;

18 (2) for the public regulation commission,
19 fifty voters;

20 (3) for the state board of education,
21 twenty-five voters;

22 (4) for state representative, ten voters;

23 (5) for state senator, seventeen voters; and

24 (6) for district attorney and district judge,
25 fifteen voters.

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1 D. A candidate who fails to receive the preprimary
2 convention designation that he sought may collect additional
3 signatures to total at least four percent of the total vote of
4 the [~~candidate's~~] party whose nomination the candidate is
5 seeking in the state or congressional district, whichever
6 applies to the office [~~he seeks~~] sought, and file a new
7 declaration of candidacy and nominating [~~petitions~~] petition
8 for the office for which [~~he~~] the candidate failed to receive a
9 preprimary designation. The declaration of candidacy and
10 nominating [~~petitions~~] petition shall be filed with the
11 secretary of state either ten days following the date of the
12 preprimary convention at which [~~he~~] the candidate failed to
13 receive the designation or on the date all declarations of
14 candidacy and nominating petitions are due pursuant to the
15 provisions of the Primary Election Law, whichever is later."

16 Section 9. Section 1-10-7 NMSA 1978 (being Laws 1977,
17 Chapter 222, Section 30, as amended) is amended to read:

18 "1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--
19 EXCEPTIONS.--Except in the case of a candidate for United
20 States senate or United States representative who is also a
21 candidate for president or vice president of the United States,
22 or a candidate who has been nominated for an elective office by
23 more than one political party, [~~no~~] a candidate's name shall
24 not appear more than once on the ballot. [~~Whenever a person~~
25 ~~is, with his knowledge and consent, a candidate at any~~

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1 ~~nomi nating convention or primary for nomi nation as the~~
2 ~~candidate of any political party for any office to be voted on~~
3 ~~at the election to be held next after such convention or~~
4 ~~primary, his name shall not be printed on the ballot at such~~
5 ~~election except in the column under the party name and emblem~~
6 ~~of the party designated on his declaration of candidacy or~~
7 ~~statement of candidacy for convention designation.] "~~

8 Section 10. REPEAL. -- Section 1-8-19 NMSA 1978 (being Laws
9 1975, Chapter 255, Section 106, as amended) is repealed.

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